

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

John Santiago, Petitioner

*(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)*

- against -

D. LaClair, Superintendent

*(In the space above enter the full name(s) of the defendant(s)/respondent(s).)*

Notice is hereby given that John Santiago  
(party)

hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment  
denail of Habeas Corpus  
(describe the judgment)

entered in this action on the 16 day of February, 20 12.  
(date) (month) (year)

  
Signature

Wyoming Correctional Facility  
Address

Attica, New York 14011  
City, State & Zip Code

DATED: March 14, 20 12

( ) -  
Telephone Number

NOTE: To take an appeal, this form must be received by the Pro Se Office of the Southern District of New York within thirty (30) days of the date on which the judgment was entered, or sixty (60) days if the United States or an officer or agency of the United States is a party.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: **MAR 20 2012**

08 Civ. 9906 ( ) ( ) (DAB)

PRO SE OFFICE

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

John Santiago, Petitioner

(In the space above enter the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

D. LaClair, Superintendent

(In the space above enter the full name(s) of the defendant(s)/respondent(s).)

08 Civ. 9906 ( ) ( ) (DAB)

**REQUEST TO PROCEED  
IN FORMA PAUPERIS  
ON APPEAL**

I, John Santiago, (print or type your name) am the plaintiff/petitioner in the above entitled case and I hereby request to proceed *in forma pauperis* on appeal and without being required to prepay fees or costs or give security. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor, and that I believe I am entitled to redress.

The issues I desire to present on appeal are the following: 1). Counsel was ineffective for not conducting a reasonable investigation on a witness who had exculpatory evidence that was available at the county jail where counsel visit me in (Strickland v. Washington). 2). Counsel was ineffective for not informing petitioner of the direct consequences rendered by N.Y. State Statute pursuant to penal law 70.30 via a consecutive sentence, which combines two terms to yeild on sentence (People v. Buss, 11 N.Y.3d 553); and ineffective for informing me that all I would have to do for the present offense is 3 years maximum. However, I continue to be incarcerated for the same offense as of the date of this application.

1. If you are presently employed:

- a) give the name and address of your employer
- b) state the amount of your earnings per month

Wyoming Correctional Facility, 3203 Dunbar Rd., Attica, N.Y. 14011

current earnings is approx. \$16.00

2. If you are NOT PRESENTLY EMPLOYED:

- a) state the date of start and termination of your last employment
- b) state your earnings per month

**YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.**

Coco-Cola, commenced in 2001 and terminated in 2006

Monthly income was approx. \$2,000

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

I received approx. \$25.00 to \$50.00, here and there during the past 12 months from a friend named Mr. Perez.

a) Are you receiving any public benefits? ☒ No. ☐ Yes, \$ \_\_\_\_\_.

b) Do you receive any income from any other source? ☒ No. ☐ Yes, \$ \_\_\_\_\_.

4. Do you have any money, including any money in a checking or savings account? If so, how much?

☒ No. ☐ Yes, \$ \_\_\_\_\_.

5. Do you own any apartment, house, or building, stock, bonds, notes, automobiles or other property? If the answer is yes, describe the property and state its approximate value.

☒ No. ☐ Yes, \$ \_\_\_\_\_.

6. Do you pay for rent or for a mortgage? If so, how much each month?

☒ No. ☐ Yes, \_\_\_\_\_.

7. List the person(s) that you pay money to support and the amount you pay each month.

None.

8. State any special financial circumstances which the Court should consider.

Petitioner has no immediate family as they are all deceased and therefore, petitioner is completely dependent upon the weekly \$4.00 from the Correctional programs that he participates in.

I understand that a false statement or answer to any question in this declaration shall subject me to the penalties for perjury.

**I declare under penalty of perjury that the foregoing is true and correct.**

Signed this 14th day of March, 2012.  
date month year

  
Signature

**Let the applicant proceed on appeal without prepayment of cost or fees or the necessity of giving security therefor.**

\_\_\_\_\_  
United States District Judge

DATED: \_\_\_\_\_, 20\_\_  
\_\_\_\_\_, New York

Rev. 07/2007

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----X  
JOHN SANTIAGO,

Petitioner,

-against-

D. LACLAIR, Superintendent,

Respondent.  
-----X

08 CIVIL 9906 (DAB)  
**JUDGMENT**

Whereas on November 9, 2010, the Honorable George A. Yanthis, United States Magistrate Judge, having issued a report and recommendation ("report") recommending that the petition for a writ of habeas corpus be denied in its entirety, and the matter having come before the Honorable Deborah A. Batts, United States District Judge, and the Court, thereafter, on February 16, 2012, having rendered its Order adopting the report in its entirety, and denying the petition for a writ of Habeas Corpus in its entirety, and dismissing this action in its entirety with prejudice, it is,

**ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Order dated February 16, 2012, the report is adopted in its entirety; the petition for a writ of habeas corpus is denied in its entirety; and this action is dismissed in its entirety with prejudice; the Court finds that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue; the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from the Order dated February 16, 2012 would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal; accordingly, the case is closed.

**DATED:** New York, New York  
February 22, 2012

**RUBY J. KRAJICK**

\_\_\_\_\_  
Clerk of Court

BY:

  
\_\_\_\_\_  
Deputy Clerk.

THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_

John Santiago, #07A1732  
Wyoming Correctional Facility  
3203 Dunbar Rd., P.O. Box 501  
Attica, New York 14011

---

March 14, 2012

Att: Pro-se Clerk  
United States District Court  
Southern District of New York  
U.S. Courthouse, 500 Pearl Street  
New York, N.Y. 10007

08 civ. 9906 (DAB)

Re: Notice of Appeal Application  
In Forma Pauperis Application

Dear Court Clerk,

Please find enclosed for filing a Notice of Appeal with an application to proceed in forma pauperis as a result to a judgment entered by this Court on or about February 16, 2012, adopting the report and recommendation of the United States Magistrate Judge, George A. Yanthis, and denying the petition for a writ of Habeas Corpus in its entirety. A copy of the judgment is enclosed for your convenience. Thank you for your time and attention on this matter.

Sincerely,

  
John Santiago, #07A1732